



SIGTARP

Special Inspector General for the Troubled Asset Relief Program

MEMORANDUM

TO: All SIGTARP Employees and Applicants
Sally Ruble
FROM: Sally Ruble
Associate Deputy Special Inspector General, Human Resources

SUBJECT: Procedures for Providing Reasonable Accommodation Requests

DATE: June 15, 2012

Overview

The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) is committed to providing equal employment opportunity to all employees and applicants, including qualified individuals with disabilities, consistent with all applicable laws, Executive orders, regulations and Equal Employment Opportunity Commission (EEOC) guidelines.

Executive Order 13164 requires that Federal agencies establish effective written procedures for processing requests for reasonable workplace accommodations. The procedures set forth below are to be followed when considering reasonable accommodation requests for employees and applicants with disabilities. Section 501 of the *Rehabilitation Act of 1973*, as amended, prohibits employment discrimination against individuals with disabilities in the Federal sector and requires Federal agencies to provide reasonable accommodation to qualified employees or applicants with disabilities, unless doing so would cause undue hardship. The *Rehabilitation Act Amendments of 1992* incorporates the employment standards of Title I of the *Americans with Disabilities Act (ADA)* into the Rehabilitation Act.

It is the policy of SIGTARP to employ and advance the employment of qualified individuals, including those with disabilities. SIGTARP shall make reasonable accommodations for the known physical or mental limitations of individuals who are part of SIGTARP's workforce, unless doing so would impose an undue hardship on the operation of SIGTARP. Reasonable accommodations may include, but are not limited to: making existing facilities readily accessible to individuals with disabilities; job restructuring, modification of work schedules or place of work, extended leave, telecommuting, reassignment to a vacant position; acquisition or modification of equipment or devices, including computer software and hardware or the provision of qualified readers and/or interpreters; appropriate adjustments or modifications of examinations, training materials or policies; and other similar accommodations.

SIGTARP's Human Resources division will provide training to all supervisors and managers to facilitate a reasonable accommodation request from employees and prospective applicants.

Procedures

Requesting an Accommodation

Normally, an employee makes a request for a reasonable accommodation to his/her immediate supervisor; a supervisor or manager in his/her immediate chain of command; the Equal Employment Officer; or directly to the SIGTARP's Employee Relations (ER) Specialist. A family member, friend, health care professional, or other representative may request a reasonable accommodation on behalf of an employee or applicant with a disability. The request for accommodation may be made either orally or in

writing. However, if the request is made orally, for record keeping purposes, the ER Specialist will document in writing all oral requests (Attachment A).

Job applicants may make a request for reasonable accommodation, orally or in writing, to the personnel office or an employee with whom the applicant has been in contact in connection within the application process. The request should identify the accommodation needed, if known. Although an applicant with a disability may request a reasonable accommodation at any time during the application process, to the greatest extent possible, the applicant should make the request as soon as he/she is aware of a barrier in the process. Applicants with a disability contacted for an interview shall inform the interviewer, or designee, of the need and the type of accommodation needed for the interview. Accommodation for the interview shall be the responsibility of the interviewing official.

Upon receipt of a request for reasonable accommodation, either oral or written, SIGTARP should acknowledge receipt, begin immediate evaluation of the request, complete consideration, and provide accommodation within a reasonable time frame. If consideration of the request for an accommodation requires more than 30 days, the requesting individual will be informed of the delay, the reason(s) additional time is required, and what additional documentation or information, if any, is required.

When an individual needs a reasonable accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers), a written request is required only for the initial request; however, appropriate notice must be given each time the accommodation is needed.

Immediate Supervisor

The immediate supervisor is responsible for receiving and reviewing requests for reasonable accommodation, assessing essential job functions, requesting pertinent medical documentation, if appropriate, and whenever possible, approval of reasonable accommodation requests, including "no cost" accommodations. Examples of such accommodations include, but are not limited to, the use of an interpreting service and access to designated parking.

If the immediate supervisor is not authorized or unwilling to approve the request, he/she must forward, within seven business days from the date of receipt, the request for accommodation to his/her Function Head for review and approval. The immediate supervisor must document, in writing, his/her reasons for not approving the request prior to forwarding it to the Function Head. The immediate supervisor is also responsible for ensuring that all completed request forms, supporting documentation, and decisions are submitted to the ER Specialist within 15-business days upon receipt. The immediate supervisor must also notify the individual of the status of his/her request for accommodation.

Requests for Medical Information

SIGTARP is entitled to know that an employee/applicant has a covered disability that requires a reasonable accommodation. In cases where the nature and extent of the disability and need for accommodation are obvious or already known, further medical information may not be requested and the supervisor or the official for processing applicants shall process the request.

Where the disability and/or the need for accommodation are not obvious, SIGTARP may ask for reasonable medical documentation related to the individual's disability or functional impairment. The medical documentation is necessary so that SIGTARP can determine whether the employee/applicant has a covered disability that requires a reasonable accommodation. Specifically, medical documentation may be requested in order to substantiate that the individual is a qualified individual with a disability within the meaning of the *Rehabilitation Act*; determine whether an accommodation is needed and can be effective; and assess what kind of accommodation is necessary.

The types of medical documentation that may be necessary could include, but are not limited to, information related to:

- The nature, severity and duration of the person's impairment;
- The activity or activities the impairment limits and the extent of the limitation;
- Why the person requires the accommodation requested, or an alternative accommodation; and,

- How the requested accommodation will assist the individual to perform the essential job functions, enjoy a privilege or benefit of the workplace, or participate in the application process for consideration of job openings.

SIGTARP may request additional documentation if what is submitted is insufficient to make a determination about the accommodation. If the information provided by the requesting individual is not sufficient for management to complete a review of the request, SIGTARP's Employee Relations Specialist will explain the request for additional information to the employee/applicant, including what medical documentation is required, encourage the employee/applicant to obtain the information, and issue a medical release form to the employee/applicant (Attachment B). This medical information must be obtained from an appropriate professional such as a doctor, social worker or rehabilitation counselor. All requests for medical information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

The burden of proof that an employee/applicant's disability warrants a reasonable accommodation lies with the individual requesting the modification. If the employee/applicant declines to provide appropriate documentation, or authorize SIGTARP to obtain medical documentation or contact the appropriate health care provider, then the immediate supervisor will base the decision upon the information previously provided.

Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process

Under the *Rehabilitation Act*, medical information obtained in connection with the reasonable accommodation process must be kept confidential and may only be disclosed to individuals who have a verifiable need to know of the medical information. All medical information, including information about functional limitations and reasonable accommodation needs, that SIGTARP obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file or from other files maintained with respect to the employee (e.g., files kept by a supervisor). It may not be disclosed except as follows:

- Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation;
- First aid and safety personnel may be told if the disability might require emergency treatment;
- Government officials may be given information necessary to investigate SIGTARP's compliance with the *Rehabilitation Act*; and
- The office of Human Resources may be given the information to maintain records, evaluate, and report on SIGTARP's performance in processing reasonable accommodation requests.

Granting a Reasonable Accommodation Request

All requests will be considered in consultation with the appropriate Human Resources and General Counsel staff as necessary. The immediate supervisor is required to respond to and approve reasonable accommodation requests whenever possible, with an emphasis on those where:

- no cost is involved; and
- the supervisor and the employee are in agreement as to the accommodation (e.g., rearrangement of the furniture within an employee's work space/office, approval of late arrival, etc.).

If the request is approved by the immediate supervisor, a copy of the approval must be forwarded to the ER Specialist for record keeping purposes.

As soon as a reasonable accommodation is granted, the immediate supervisor shall promptly notify the individual. If there is a delay in providing the accommodation, the immediate supervisor must inform the individual in writing of the projected time frame when the accommodation will be delivered. For record keeping purposes, the immediate supervisor shall notify the office of Human Resources that the accommodation was granted.

Denial of Reasonable Accommodation Request

If the immediate supervisor determines not to grant an accommodation request, he/she shall provide notification in writing to the requester with an explanation as to why the request was denied, and a courtesy copy to the office of Human Resources for record keeping purposes. If the immediate supervisor offers an alternative accommodation that is not accepted by the requester, the denial notice should clearly explain both the reasons for the denial of the requested accommodation and the reasons that the alternative accommodation would be effective. Reasons for denial of a request for reasonable accommodation must include specific reasons for the denial explaining why the accommodation would not be effective or why it would result in undue hardship for the Agency.

Appeal Process

If the immediate supervisor denies the accommodation, the employee has the right to appeal to the next-line management official in the chain of command, or the employee may opt to participate in the Alternative Dispute Resolution process. All appeal requests must be made within 10 business days of the immediate supervisor's written denial.

The next line supervisor will respond to the appeal within ten (10) business days in writing, and, if the decision is not reversed, the reasons for the denial must be specified. If the next-line supervisor denies the request for accommodation, or no agreement is reached through the Alternative Dispute Resolution process, the office of Human Resources will issue SIGTARP's final decision letter with notification of their appeal rights to the individual. The final written decision notice of denial will inform the individual of their right to file an Equal Employment Opportunity (EEO) complaint and may have rights to pursue with the Merit Systems Protection Board (MSPB).

If an individual chooses not to request reconsideration, or is dissatisfied with the reconsideration decision, the employee may pursue a claim under one of the following processes:

- For an EEO complaint, contact the EEO Program Manager within 45 days from the date of receipt of the written notice of denial, or
- Initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3, if the reasonable accommodation qualify as appealable adverse actions.

Applicants do not have access to the appeal process; however, they have the option to follow the Equal Employment Opportunity Commission's discrimination complaint process.

Record Keeping

The ER Specialist will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of Title 29 C.F.R. Part 1611.

Attachment A: Request for Reasonable Accommodation Form

Attachment B: Authorization for the Release of Medical Information

SIGTARP Request for Reasonable Accommodation

1. Date: _____

2. Name of Person Requesting: _____

Address: _____ Phone No.: _____
(Office Address) (Area Code, Phone Number)

_____ E-mail: _____
(City, State, Zip Code)

3. List all known dates/times the accommodation(s) are needed (specify):

5. Why is an accommodation needed?

6. What accommodation would you like? *(be specific as possible, e.g., adaptive equipment, reader, interpreter)*

7. Please provide any information that would help SIGTARP respond to your request.

Date: _____

➤ _____
(Signature of Person Requesting)

Date: _____

➤ _____
Signature of Supervisor

Review and Action by SIGTARP

Reasonable Accommodation Request Form received: _____
(Date)

Name of Person Requesting: _____

Additional information requested: _____
(Date)

Additional information received: _____
(Date)

Requested Accommodation Denied: _____
(Date)

- Fails to satisfy the requirements
- Creates an undue burden for SIGTARP
- Fundamentally alters the nature of the service, program or activity
- Permitting the applicant to participate in the proceeding with the requested accommodation creates a direct threat to the safety or well-being of the person requesting or others.

Basis for Finding: _____

Requested Accommodation Granted: _____
(Date)

- In whole In part (*specify*) Alternative (*specify*)

Dates accommodation will be provided:

Person requesting notified on: _____
(Date)

➤ _____
(Signature of Approver)



OFFICE OF THE SPECIAL INSPECTOR GENERAL
FOR THE TROUBLED ASSET RELIEF PROGRAM
1801 L STREET, NW
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**AUTHORIZATION FOR THE RELEASE
OF MEDICAL INFORMATION**

I, _____, hereby authorize _____
(name) (name)

to release to the **Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP)** medical information pertinent to the reasonable accommodation requested in the attached document.

To any licensed physician, other licensed practitioner, hospital, clinic, or other medically related facility, or United States Veteran Administration: I authorize you to release to SIGTARP the above-requested information to be used solely for the purpose of evaluating my request for reasonable accommodation. This authorization shall be valid for a period 180 days after the date of my signature or earlier if revoked by me in writing to SIGTARP. I hereby acknowledge that I have been informed of my right to receive a copy of this authorization request. I further acknowledge that I have been informed that if the medical information contained herein is not released, my reasonable accommodation may be denied.

Employee Signature

Date